

## UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

)

Case No: 5:20-cr-46-KDB-SCR-12

Lowell Thomas Messer, Jr.

)

USM No: 02844-509Date of Original Judgment: 08/06/2021

)

Date of Previous Amended Judgment: \_\_\_\_\_

)

(Use Date of Last Amended Judgment if Any) \_\_\_\_\_

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION  
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of  the defendant  the Director of the Bureau of Prisons  the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

**IT IS ORDERED** that the motion is:

DENIED.  GRANTED and the defendant's previously imposed sentence of imprisonment (*as reflected in the last judgment issued*) of \_\_\_\_\_ months **is reduced to** \_\_\_\_\_.

*(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)*

Except as otherwise provided, all provisions of the judgment dated 08/06/2021 shall remain in effect.

**IT IS SO ORDERED.**

Signed: May 12, 2024

  
Kenneth D. Bell  
United States District Judge *Judge's signature*

Effective Date:

(if different from order date)

Kenneth D. Bell

*Printed name and title*

**This page contains information that should not be filed in court unless under seal.**  
*(Not for Public Disclosure)*

DEFENDANT: Lowell Thomas Messer, Jr.

CASE NUMBER: 5:20-cr-46-KDB-SCR-12

DISTRICT: Western District of North Carolina

**I. COURT DETERMINATION OF GUIDELINE RANGE (*Prior to Any Departures*)**

Previous Total Offense Level: \_\_\_\_\_ Amended Total Offense Level: \_\_\_\_\_

Criminal History Category: \_\_\_\_\_ Criminal History Category: \_\_\_\_\_

Previous Guideline Range: \_\_\_\_\_ to \_\_\_\_\_ months Amended Guideline Range: \_\_\_\_\_ to \_\_\_\_\_ months

**II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE**

- The reduced sentence is within the amended guideline range.
- The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- The reduced sentence is above the amended guideline range.

**III. FACTORS CONSIDERED UNDER USSG § 1B1.10 AND 18 U.S.C. § 3553(a) (*See Chavez-Meza v. United States, 138 S.Ct. 1959 (2018)*)**

The amendments in U.S.S.G §4A1.1 and §4C1.1 in Amendment 821 do not change Defendant's criminal history points or criminal history category as Defendant did not have any "status points" as his offense was not committed while he was under a criminal sentence and he was not a zero-point offender as he had 3 criminal history points. (Doc. No. 284, ¶69). There is no reason to appoint counsel in this matter.